

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION
CASE NO. 5:19-MC-00028-D**

FORTITUDE FINANCIAL)	MILONE & MACBROOM, INC.’S
INVESTMENTS, INC.,)	MOTION TO EXTEND TIME TO
Plaintiff,)	FILE OPPOSITION TO
)	INTERVENOR’S MOTION FOR
v.)	RELIEF AND RESPONSE IN
)	OPPOSITION TO INTERVENOR’S
LSTAR MANAGEMENT, LLC)	MOTION TO STRIKE
Defendants.)	

NOW COMES Milone & MacBroom, Inc. (“M&M”), an interested party in this action, and pursuant to Fed. R. Civ. P. Rule 6(b)(1)(B) and Local Rule 7.1, hereby files its *Motion to Extend Time to file its Opposition to Intervenor’s Sherry K. Corkum’s and Nichols Street, LLC’s Motion for Relief from Order Approving Settlement Agreements and Response in Opposition to Sherry K. Corkum’s and Nichols Street, LLC’s Motion to Strike* (collectively “Motion to Extend Time”). In support of its Motion to Extend Time, M&M shows to the Court as follows:

1. M&M is a judgment creditor of Kyle V. Corkum (“Kyle Corkum”), Landquest Legacy of North Carolina, LLC (“LL”) and numerous other entities affiliated with Kyle Corkum.
[Document Entry Number 52, hereinafter “DE __”].
2. On December 20, 2021, the Court entered an *Order Granting Receiver’s Motion to Approve Settlement and Release Agreements and Distributions* (“December 20th Distribution Order”).
[DE 59].
3. On January 26, 2022, Sherry K. Corkum and Nichols Street, LLC (collectively “Sherry Corkum”) filed an *Ex Parte Motion to Intervene, Motion for Relief from Order Approving Settlement Agreements (DE-59) and Motion to Shorten Time* and related memorandum (“Motion to Intervene”) [DE 63, 64] along with *Sherry Corkum’s First Declaration in Support of Her Ex Parte Motion to Intervene, Motion for Relief from Order Approving*

Settlement Agreements and Distributions (DE-59) and Motion to Shorten Time

(“Declaration”). [DE 65].

4. On January 28, 2022, M&M filed a Limited Objection to the Motion to Intervene. [DE 68].
5. On January 28, 2022, Sherry Corkum filed a Reply to M&M’s Limited Objection. [DE 70].
6. On February 16, 2022, M&M filed its Opposition to the Motion to Intervene (“M&M’s February 2022 Opposition”). [DE 71].
7. On March 2, 2022, Sherry Corkum filed a Reply to M&M’s February 2022 Opposition. [DE 73].
8. On September 8, 2022, the Court entered an Order allowing Sherry Corkum and Nichols Street, LLC’s (collectively, “Intervenors”) Motion to Intervene and ordered further briefing on Intervenors’ request for relief pursuant to Federal Rule of Civil Procedure 60(b). [DE 78].
9. On October 7, 2022, Intervenors filed a *Motion for Relief from Order Approving Settlement Agreements* and related memorandum (collectively “Motion for Relief”). [DE 79, 80].
10. On November 3, 2022, M&M filed its Opposition to Motion for Relief. [DE 83].
11. On November 10, 2022, Intervenors filed a Motion to Strike M&M’s Opposition to Motion for Relief based solely on the date it was filed and without articulating any prejudice to Intervenors because of the delay or that they would be unfairly prejudiced if their Motion to Strike were denied. [DE 84].
12. Based on the specific factual and procedural history of this case as it applies to M&M, Kyle Corkum, and Intervenors and pursuant to Fed. R. Civ. P. 6(b)(1)(B), good cause exists for this Court to retroactively extend the deadline for M&M to file M&M’s Opposition to Motion for Relief, which was filed on November 3, 2022 [DE 83], and deny Intervenors’ Motion to Strike [DE 84]. M&M’s delay in filing its Opposition to the Motion for Relief was

inadvertent and the result of a calendaring error.

13. For the reasons set forth herein and in its accompanying memorandum of law, M&M respectfully requests that this Court enter an Order retroactively extending the deadline for M&M to file its Opposition to Motion for Relief, which was filed on November 3, 2022 [DE 83], and deny Intervenors' Motion to Strike [DE 84].
14. A proposed order granting the relief sought herein is attached as **Exhibit A**.

WHEREFORE, M&M respectfully requests that this Court enter an Order extending the deadline for M&M to file its Opposition to Motion for Relief [DE 83] to November 3, 2022 and deem its Opposition to Motion for Relief as timely filed, and deny Intervenors' Motion to Strike, and any further relief that this Court deems just and proper.

Respectfully submitted on this the 1st day of December, 2022.

/s/ Byron L. Saintsing
Byron L. Saintsing, NC State Bar No. 16035
SMITH DEBNAM NARRON DRAKE
SAINTSING & MYERS, L.L.P.
PO Box 176010
Raleigh, NC 27619-6010
Telephone: 919-250-2000
Fax: 919-250-2211
bsaintsing@smithdebnamlaw.com
*Attorneys for Interested Party Milone &
MacBroom, Inc.*

CERTIFICATE OF SERVICE

I hereby certify that I caused a copy of the foregoing document to be filed electronically through CM/ECF and thus to be served by electronic notification on those parties properly registered for electronic service through this Court's CM/ECF system, including the following:

James S. Livermon, III, Esq.
Womble Bond Dickinson (US) LLP
555 Fayetteville Street, Suite 1100
Raleigh, NC 27601
Telephone: 919-755-2148
Fax: 919-755-6178
charlie.livermon@wbd-us.com
Attorneys for Fortitude Financial Investments, Inc.

Lisa P. Sumner, Esq.
Poyner Spruill LLP
301 Fayetteville Street, Suite 1900
Raleigh, NC 27601
Telephone: 919-783-6400
Fax: 919-783-1075
lsumner@nexsenpruet.com
Attorneys for LStar Development Group, Inc.

D. Kyle Deak, Esq.
Troutman Pepper Hamilton Sanders LLP
305 Church at North Hills Street, Suite 1200
Raleigh, NC 27609
Telephone: 919-835-4133
kyle.deak@troutman.com
Attorneys for LA Coinvest, LLC

Zachary H. Smith, Esq.
Moore & Van Allen
100 North Tryon, Suite 4700
Charlotte, NC 28202
Telephone: 704-331-1046
Fax: 704-378-1909
zacharysmith@mvalaw.com
Attorneys for GDMB Holding LLC, TOBI IV LLC, and TOBI V LLC

Margaret R. Westbrook, Esq.
K&L Gates, LLP
4350 Lassiter at North Hills Avenue, Suite 300
Raleigh, NC 27609
Margaret.westbrook@klgates.com
Receiver and Attorneys for Receiver

Paul A. Fanning, Esq.
Ward & Smith, P.A.
751 Corporate Drive, Suite 300
Raleigh, NC 27607
Attorneys for SW-NEC UP Lender, LLC

Ashley A. Edwards, Esq.
Parker Poe Adams & Bernstein LLP
620 S. Tryon Street, Suite 800
Charlotte, NC 28202
ashleyedwards@parkerpoe.com
Attorneys for Hartford Fire Insurance Company

Donald G. Hunt, Jr., Esq.
Kristen Atkins Lee, Esq.
Akens Hunt Akens, P.C.
570 New Waverly Place, Suite 240
Cary, NC 27518
Attorneys for Sherry Corkum and Nichols Street, LLC

This the 1st day of December, 2022.

/s/ Byron L. Saintsing

Byron L. Saintsing, NC State Bar No. 16035

SMITH DEBNAM NARRON DRAKE

SAINTSING & MYERS, L.L.P.

PO Box 176010

Raleigh, NC 27619-6010

Telephone: 919-250-2000

Fax: 919-250-2211

bsaintsing@smithdebnamlaw.com

*Attorneys for Interested Party Milone &
MacBroom, Inc.*